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	Page 1	Case 1:03-cv-12307-RGS Document 5	Fage 2 Filed 09/17/2007 Page 1 of 5	D
	[1]	volume 1 Pages 1 to 91 Exhibits 1 to 8	[2] GILMORE, REES, CARLSON & CATALDO, P.C	
	[2]		1000 Franklin Village Dr. [3] Franklin, MA 02038	
	[3]	UNITED STATES DISTRICT COURT	by Edward J. McCormick, III, Esq. [4] for the Plaintiff	
\	[4]-	DISTRICT OF MASSACHUSETTS		
1	[5]	JOSEPH CHRISTOFORO,	43 Thorndike St.	ä
	[6]	Plaintiff(s),	[6] Cambridge, MA 02141 by Jay Hodapp, Esq.	
	[7]	v. Civil Action No. 03 CV 12307 RGS	[7] for the Defendant Julio Lupo	
	1	JULIO LUPO, FRANK G. COUSINS, JR., INDIVIDUALLY AND IN HIS CAPACITY AS	[8] MERRICK, LOUISON & COSTELLO 67 Batterymarch St.	
	[9]	INDIVIDUALITY AND IN HIS CAPACITY TO BESSEX COUNTY SHERIFF, AND CERTAIN UNKNOWN INDIVIDUALS,	[9] Boston, MA 02110 Stephen Pfaff, Esq.	
	[10]	UNKNOWN INDIVIDUALS, Defendant(s).	[10] for the Defendant Frank G. Cousins, Jo	•
	[11]		[11]	
•	[12]		[12]	,
	[13]	DEPOSITION OF JULIUS J. LUPO, a witness called by	[13]	- ,
	[14]	counsel for the Plaintiff, taken pursuant to the	[14]	
	[15]	applicable rules, before Diane L. McElwee, Registered	[15]	
	[16]	Merit Reporter and Notary Public in and for the	[16]	
	[17]	Commonwealth of Massachusetts, at the Offices of	[17]	
	[18]	GILMORE, REES, CARLSON & CATALDO, P.C, 1000 Franklin	[18]	•
	[19]	Village Drive, Franklin, Massachusetts, on Monday,	[19]	
	[20]	May 16, 2005, commencing at 2:35 PM.	[20]	
	[21]		[21]	
	[22]		[22]	
	[23]	DIANE L. MCELWEE, RPR, RMR	[23]	
	[24]		[24]	•
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Pag	Case 1:03-cv-12307-RGS Document 5	5 ^{Page} ¹⁹ iled 09/17/2007 Page 2 of 5
[1]		[1] A 27, \$2800 for rent.
[2]	Q That is registered with the Secretary of	[2] Q Now prior to opening Lupo's, where did you
[3]	States's Office in the Commonwealth of Massachusetts?	[3] work?
[4]		[4] A I worked for the Department of Corrections,
[5]		[5] Middleton, Mass.
[6]		[6] Q Is that the Essex County -
[7]		[7] A Essex County Sheriff's Department.
[8]		[8] Q When did you first go to work for the Essex
[9]		[9] County Sheriff's Department, Mr. Lupo?
[10		[10] A Either December of '97 or January '98,
[11		[11] something like that. I am not actually sure of the
[12		[12] date.
[13		[13] Q If I show you your answers to
[14		[14] interrogatories, No. 3, Please state your employment
[15	·	[15] background listing the name and address of each
[16		[16] employer you have worked from 1985 to the present,
[17	•	[17] you state that you went to work for the Essex County
[18	to to sing the	[18] House of Correction in Middleton, Mass. in 1999.
[19		[19] Would that refresh your memory?
[20		[20] A Yes.
[21		[21] Q So it would be 1999 that you went
[22	9 10	[22] A Yes, that would be correct.
[23		[23] Q Now for what job were you hired to perform
[24	11. F mand?	[24] at the Essex County House of Correction by the
[2:	•	[25]
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Pa	age 11	Page 12
1	age 11 1] Sheriff's Department in 1999?	[1] there, too. We all worked together, because if I was
[1	1] Sheriff's Department in 1999?	T mag
[1	1] Sheriff's Department in 1999? 2] A To be an institutional cook.	 [1] there, too. We all worked together, because if I was [2] out, then another gentleman would step in and take [3] over.
[1 [2 [3	Sheriff's Department in 1999? A To be an institutional cook. Q What were your duties and responsibilities	 [1] there, too. We all worked together, because if I was [2] out, then another gentleman would step in and take [3] over. [4] Q Now is that the position that you took when
[1 [2 [3	Sheriff's Department in 1999? A To be an institutional cook. Q What were your duties and responsibilities as an institutional cook?	 [1] there, too. We all worked together, because if I was [2] out, then another gentleman would step in and take [3] over. [4] Q Now is that the position that you took when [5] you first joined the Sheriff's Department in 1999?
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	Page 29	Case 1:03-cv-12307-RGS Document 57 A Yes, it could be.	Page	illed 09/17/2007 Page 3 of 5 A I don't recall that. Like, put your hands
			[2]	up.
-	[2]		[3]	Q Were you taught any specific vulnerable
_	[3]		[4]	parts of the body on which to strike an inmate if you
	[4]	a rifle, what to do when there are riots.	[5]	were attacked?
	[5]	Q Anything else?	[6]	A No.
	[6]	A That's all.		
	[7]	Q What were you taught relative to	[7]	Q You don't remember anything else, what you
	[8]	self-defense?	[8]	were taught about self-defense?
	[9]	A Can you rephrase that a little?	[9]	A No.
	[10]	Q Sure.	[10]	Q You were taught how to use a pistol and
	[11]	You say you were taught self-defense at	[11]	rifle?
	[12]	this boot camp. From whom were you being taught to	[12]	A Yes.
	[13]	defend yourself against?	[13]	Q And your position at this time was assistant
	[14]	A Outbreak of crowds.	[14]	food director, correct?
	[15]	Q Meaning inmates?	[15]	A Yes.
	[16]	A Inmates.	[16]	Q And you were taught what to do if there was
	[17]	Q Were you taught any specific tactics or body	[17]	a riot, correct?
	[18]	maneuvers on how to defend yourself from inmates?	[18]	A Yes.
	[19]	· A I don't recall what the specifics were.	[19]	Q What were you taught to do if there was an
	[20]	Q Were you taught how to defend yourself in	[20]	inmate riot at the House of Correction?
	[21]	case an inmate attacked you?	[21]	A Control the situation, lock down the
	[22]	A Yes.	[22]	premises, and call the riot guards in.
	[23]	Q And what were some of the things you were	[23]	Q With regard to controlling the situation,
	[24]	taught?	[24]	what were you taught on how to control inmates?
	[25]		[25]	
	1,,		l	
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0	Page 3		Page	
	Page 3	MR. PFAFF: Objection.	[1]	Q Ever use a rifle?
	1	MR. PFAFF: Objection. MR. McCORMICK: I will rephrase.	[1] [2]	Q Ever use a rifle? A No.
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:	[1]	A Like stopping the inmates from working up to	[.1]	started banging.
	[2]	par.	[2]	Q You heard him say, This place sucks; we
	[3]	Q Did he physically stop anyone from working	[3]	don't have to do this, words to that effect?
	[4]	up to par?	[4]	A Something like that.
()	[5]	A No.	[5]	Q You are not sure what the words were?
	[6]	Q So he did this, in your opinion, simply by	[6]	A Right.
	[7]	speaking?	[7]	Q What did you do when you heard that?
	[8]	A Speaking.	[8]	A I went over and told him to keep the noise
	[9]	Q What was he doing?	[9]	down and keep the line moving.
	[10]	A Swearing.	[10]	Q What did he say to you?
	[11]	Q What was he saying other than swearing?	[11]	A He said something, and I turned my back.
	1	A I don't recall.	[12]	Q Then what?
	[12]	Q What specific words, if any, do you recall	[13]	A He said, Fuck him.
	[13]	him saying?	[14]	Q Then what did you do then?
	[14]		[15]	A I went back to my table, and when the noise
	[15]		[16]	started up again, I went to Cristoforo and flicked
	[16]	this work. Q Anything else?	[17]	his ear and told him to be quiet.
	[17]		[18]	Q When you flicked his ear, as you put it, was
	[18]	- m 11.1.1	[19]	he facing away from you?
	[19]		[20]	A No. He was looking straight ahead.
	[20]	A I don't remember.	[21]	Q You came at him from the side?
	[21]	Q More than one?	[22]	A Yes.
	[22]	A No, probably once, maybe twice. After the	[23]	Q He wasn't looking at you when you touched
	[23]	first time I went to tell him to be quiet, and then	[24]	him?
	[24]	when I went back, then they started again. They	[25]	
A STATE OF THE PARTY OF THE PAR	[25]			
\$500 BESS	1			
	Page :	35	Page	36
	Page :		Page [1]	Q How far away?
	[1]	A No.	1	
	[1] [2]	A No. Q When you say "flicked his ear," what hand	[1]	Q How far away?
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Page 4	5 Case 1:03-cv-12307-RGS Document 5 You have it.	Page 4 [1]	Filed 09/17/2007 Page 5 of 5 who they were?
1. 3	Q Can I see that for a minute, Mr. Lupo?	[2]	A No, I don't.
[2]	MR. McCORMICK: It's 36 pages.	[3]	Q Do you know an inmate by the name of Eugene
[3]	MR. PFAFF: Okay.	[4]	Fernandes?
[4]		[5]	A No.
[5]	(Pause)	[6]	Q So it's safe to say you don't know he was
[6]	(Discussion off the record)	[7]	one of the inmates on the line or not?
[7]	(Pause)	1	
[8]	Q Mr. Lupo, have you had an opportunity to	[8]	-
[9]	read the document I just showed you?	[9]	of the inmates.
[10]	A Yes.	[10]	Q What about Mr. Smith? I believe we talked
[11]	Q And is that in fact your statement that you	[11]	about an inmate named Robert Smith earlier. Do you
[12]	gave Mr. Michael Roche on January 2, 2003?	[12]	recall if he was on the line that day?
[13]	A Yes.	[13]	A Yes.
[14]	MR. McCORMICK: Can we have this	[14]	Q Was he?
[15]	marked as Exhibit 1, please.	[15]	A Yes.
[16]	(Exhibit 1 marked for identification)	[16]	Q What about Ralph Sordello?
[17]	Q For the record, Exhibit 1 is your statement.	[17]	A I don't recall.
[18]	You gave that to Michael Roche on January 2,-2002,	[18]	Q Do you know an inmate by the name of David
[19]	correct?	[19]	Souther, S O U T H E R?
[20]	A Yes.	[20]	A I don't recall that.
[21]	MR. PFAFF: What's the date?	[21]	Q You don't recall him?
	MR. McCORMICK: January 2, 2003.	[22]	A I don't recall him.
[22]	The smith	[23]	Q You do recall Mr. Smith was on the line that
[23]	•	[24]	day?
[24]	Mr. Cristoforo the day you struck him, do you recall	[25]	
[25]		1	
<u> </u>		-	
Page	47	Page	48
Page		[1]	A I called Deputy McCoy.
[1]	A Yes.	1 -	
[1] [2]	A Yes. Q Do you recall where he was working in	[1]	A I called Deputy McCoy.
[1] [2] [3]	A Yes. Q Do you recall where he was working in relationship to Mr. Cristoforo on December 23, 2002?	[1] [2]	A I called Deputy McCoy. Q Why?
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